

1904-039 Chancery Causes: A. C. Morris vs. J. C. Olinger & Lee Co.

McLeham, Scott, Killen

CA-Debt
T-Property

To the Honorable H.A.W.Skeen, Judge of the Circuit Court
for Lee County, Virginia:

Humbly complaining, your orator, A.C.Morris, a non resident of the State of Virginia, respectfully represents unto your honor that at the June Term, 1898, of the said court, on the law side thereof, a judgment was rendered in his favor against J.C.Scott, J.W.Scott and J.C.Olinger for the sum of one hundred and thirty-two dollars and fifty cents (\$132.50), with legal interest thereon from the 1st day of December, 1891, until paid, and nine dollars and sixteen cents (\$9.16) costs;; that the said judgment was duly docketed in the clerk's office of the county court for said County of Lee, in Judgment Lien Docket No.3, page____, on the 25th day of June, 1898; that a writ of fieri facias was issued on said judgment and returned no property found; and that no part of the said judgment has ever been paid to him, but the same and every part thereof is still justly due and owing to him, all of which will fully appear from an inspection of a copy of said judgment which is herewith filed as a part hereof, marked "Exhibit No.1", a transcript from said Lien Docket which is herewith filed as a part hereof, amarked "Exhibit No.2.", and a transcript from the said execution book which is herewith filed as a part hereof, marked "Exhibit No.3.":

Your orator alleges that the said J.C.Scott, since the rendition of the said judgment, has departed this life intestate; and that his estate has been committed to W.Killen, Sheriff of Wise County, Virginia, for administration. The said J.C.Scott, at the time of his death, left little or no personal

estate, not more than enough at most to pay funeral expenses and for medical attention during last illness; and he was not the owner, at the time of his death, of any real estate so far as your orator can ascertain, and your orator believes and therefore charges that the said J.C.Scott did not own any real estate at the time of his death.

Your orator alleges that since the rendition of the said judgment aforesaid, the said J.W.Scott has likewise died intestate, and this his estate has been committed to W.J.Mileham, sheriff of Lee County, for administration; and that the said J.W.Scott, at the time of his death, did not own any real estate.

Your orator alleges, however, that the said J.C.Olinger is the owner of a tract of land situated in the County of Lee in the Yokum Station Magisterial District, on Powll river, and being the same tract of land which was devised to him by his father, John C.Olinger, Sr., deceased, by his last will and testament, the rents and profits of which will not, however, amount to a sum sufficient to pay the judgment of your orator and the other judgments against the said lands.

Now, the object of this bill is to enforce the lien of the judgment aforesaid against the lands aforesaid of the said J.C.Olinger.

And in order that said object may be attained, your orators prays that the said J.C.Olinger, W.Killen, Administrator of the estate of the said J.C.Scott, deceased, and W.J.Mileham, administrator of the estate of J.W.Scott, deceased, be made parties defendant to this bill; that they each be required to answer its several allegations, but not under oath, that being waived;

that a commissioner be appointed to report the liens existing against the real estate of the said J.C.Olinger and the rental value of said real estate; that so much of said real estate may be sold as will be necessary to satisfy the judgment of your orator and the other liens ascertained to operate against the said lands; and that full general relief be granted.

May spa.issue, directed &c.

L.P. Hyatt, p.q.

Plffs Costs to June 1901

Clerk 3.72

Tap 1.50

Shff 2.00

Att 15.70

Comm 4.50

Estimated 7.50

\$34.22

A. C. Morris.

v. S. { Du Chy.

J. C. Olinger et al.

Bill

1901 1st April rules Decla
filed, summons & decrees
& accepted & decrees. Nisi
" 2nd April rules Decree
Nisi confirmed and
Cause set for hearing

A. C. Morris,

Plaintiff.

vs.

(In Chancery

J. C. Olinger, et al.

Defendant.

This cause came on this the 16th day of February, 1904, to be heard upon the papers formerly read in the cause and was argued by counsel, and the plaintiff by his attorney, L. T. Hyatt, stating in open court that the defendant, J. C. Olinger, has fully paid to him the amount of the plaintiffs judgment, sought to be collected by this suit, together with its interest and all costs attending the same, it is adjudged, ordered and decreed that this cause be stricken from the docket.

A. C. Morris
vs J. C. Chy.
J. C. Olinger et al

Decree Final
Ex. C. B. No. 7 p. 396

Enter this decree
Feb 16 1904
J. C. Olinger

to be heard upon the papers formerly read in the cause and was

This cause came on this the _____ day of February, 1904,

J. C. Olinger, et al.

Defendant.

vs.

(In Chancery

A. C. Morris,

Plaintiff.

A.C.Morris, Plaintiff.

vs. (In Chancery) Decree--

J.C.Olinger et al s. Defendants.

This cause came on again this day to be heard upon the papers formerly read herein, and the report of A.M.Goins, special commissioner, filed in the cause on the 23rd day of October, 1901, and was argued by counsel. On consideration whereof, and the said report having been filed the time required by law and no exceptions having been filed thereto, it is adjudged, ordered and decreed that the said report be confirmed, and pursuant thereto, that the plaintiff recover of the said John C.Olinger the sum of one hundred and thirty-two dollars and fifty cents (\$132.50), with legal interest thereon from the 1st day of December, 1891, until payment, and nine dollars and sixteen cents (\$9.16) costs at law, and the costs of this suit, subject to a credit of one hundred dollars (\$100.00) as of the 4th day of June, 1901, which recovery is adjudged to be a lien upon the real estate of the said John C.Olinger; and that unless the said J.C.Olinger, or some one for him, pay to the said plaintiff or his attorney, the said recovery within thirty days from this date, then L.T.Hyatt, who is hereby appointed a special commissioner for the purpose, will, after having executed bond before the clerk of this court in the penalty of two hundred dollars and after having advertised the same by posting written or printed notices thereof at three or more public places in said county, one of which shall be at the front door of the court-house of said county, and another in the Post-office at Olinger, Virginia, on a court day, at the front door of the court-house of said county, expose the home farm of the said Olinger, whereon he now resides, for rent for the shortest period of years in which the same will rent for a sum sufficient to pay the said recovery.

and at said sale he will require the costs and commissions of sale paid down in cash, and will take the notes of the lessee, with good personal security, one for each year's rents. Said commissioner will report his action hereunder to the next term of this court, and the cause is continued.

A. C. Morris
vs { ex chy
J. C. Olinger et al.

Decree No. 2.
For Renting

Entered on chcy O.B.
No 7 P 25 + 26

Enter this decree
Nov. 12, 1901.
H. C. W. Sturges

The case is continued.

*will report his action hereunder to the next term of this court, and
personal security, one for each year, a rents. Said commissioner
paid down in cash, and will take the notes of the lessee, with good
and of said sale he will reimburse the costs and commissions of sale*

A.C.Morris,

Plaintiff.

vs.

(In Chancery.)

J.C.Olinger, W.J.Mileham, administrator of the

estate of J.W.Scott, deceased, and William

Killen, administrator de bonis non of the es-

tate of J.C.Scott, deceased.....Defendants.

This cause came on this the 4th day of June, 1901, to be heard upon the bill of the plaintiff and exhibits therewith, and process duly executed on all the defendants, and was argued by counsel. On consideration whereof, and it appearing that said defendants have each been duly served with the subpoena in this case as required by law but have each failed to appear plead answer or demur to the said bill, it is adjudged, ordered and decreed that the said bill be taken for confessed as to them and each of them; and, the court deeming it necessary, it is further adjudged ordered and decreed that A.M.Goins, who is hereby appointed a special commissioner for the purpose, do ascertain and report to the next term of this court the liens existing against the real estate of the defendant J.C.Olinger, showing priorities, dates and amounts, and also the rental value of said real estate, but said commissioner will not proceed to execute this decree until after the 1st day of August, and then only in the event that he shall be notified to do so by plaintiff's counsel, it having been agreed between said Olinger and plaintiff's counsel that no action should be taken by said commissioner until after the said first day of August, 1901. Said commissioner will give to the parties to this suit due notice of the time and place of his sitting, and will further report any matter deemed pertinent by himself or required by any party in interest, and the cause is continued.

A.C. Morris
vs' { Ex Chy.
J. C. Oleiger et al.

Decree No. 1. Reference
to Court to report
liens.

Entered on Ex Chy O.B.
Nov. P. 331

Enter this
June 4 1901.
Hawkins

A.C. Morris,

vs.

(In Chancery.)

J.C. Oleiger, W.J. Michem, administrators of the

estate of J. W. Scott, deceased, and William

Kilgus, administrators of the estate of the es-

plaintiff.

Virginia

A Circuit Court continued^{and} held for
Lee County at the court house thereof on
Tuesday June 4th 1901.

A. C. Morris Plaintiff

vs

J. C. Olinger, N. J. Millhau
Administrator of the estate of
J. N. Scott deceased and
William Killen, Adminis-
trator de bonis non of the
estate of J. C. Scott deceased Defts

In Chy.

This cause came on again this the
4th day of June 1901 to be heard upon the
bill of the plaintiff and exhibits there-
with and process duly executed on all the
defendants^{and} was argued by counsel. On
consideration whereof^{and} it appearing
that said defendants have each been
duly served with the subpoena in this
case as required by law but have
each failed to appear plead answer or
demur to the said bill it is adjudged
ordered^{and} decreed that the said bill
be taken for confessed as to them^{and}
each of them^{and} the court deeming it nec-
essary, it is further adjudged ordered
^{and} decreed that A. M. Goins who is here
by appointed a Special Commissioner

for the purpose do as certain and report to the next term of this court that liens existing against the real estate of the defendant J. C. Olinger showing priorities dates and amounts and also the rental value of said real estate but said Commissioners will not proceed to execute this decree until after the 1st day of August, and then only in the event that ^{he} shall be notified to do so by plaintiffs counsel it having been agreed between said Olinger and the plaintiff's counsel that no action should be taken by said Commissioners until after the said first day of August 1901. Said Commissioners will give to the parties to this suit due notice of the time and place of his sittings and will report any matter deemed pertinent by himself or required by any party in interest. And the cause is continued.

A Copy

Tested, A. B. Mumsey Clerk

A. L. Morris

as } Copy of Deere

J. L. Olmiger et al

Granted June 14th
1901 by delivering a tested
copy of the within Deere
a m. grams

W. J. Mileham,
J. L.

Copy for

A. M. Goins

Granted June 17th

COMMISSIONER'S REPORT.

A.C.Morris)
vs.)
J.C.Olinger et al.) IN CHANCERY.

+++++

To the Hon.H.A.W.Skeen, Judge of the Circuit Court for Lee County, Virginia:

Your undersigned special commissioner, appointed by decree entered in the above styled cause on June 4th, 1901, begs leave to report that, after having given notice of the time and place of his sitting, as will be seen from a copy of the notice herewith filed marked "N", at his office in the town of Jonesville, on Oct. 18th, 1901, at the time and place designated in said notice, ^{he} proceeded to comply with the order of the court; and the proceedings having been thence forward continued from day to day, and being at length completed, the result is herewith respectfully submitted.

Your commissioner is directed by the foregoing decree to ascertain and report the liens existing against the real estate of the defendant J.C.Olinger, showing priorities, dates and amounts, and also the rental value of said real estate.

In obedience to the foregoing direction your commissioner ascertains that there is only one existing lien against the real estate of the defendant J.C.Olinger, and that is the one in favor of the plaintiff, rendered at the June term, 1898, of the Circuit court for Lee county, Va., for \$132.50, with interest thereon from Dec. 1st, 1891, till paid, and \$9.16 cost, subject to a credit of \$100 June 4th, 1901, leaving a balance of \$120.23, due as of Nov. 6th, 1901.

Your commissioner ascertains that the real estate of the defendant J.C.Olinger will rent for the sum of at least \$75.00 per year, a sum more than sufficient to pay the above debt, and the cost of this suit, in five years.

And now having fully reported your commissioner respectfully submits this his report, this Oct. 23, 1901.

.....*A.M. Goins,*

Special Commissioner.

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Fee for this Report \$ $4\frac{50}{100}$

A.C.Morris,

Plaintiff,

vs.

(IN CHANCERY.)

J.C.Olinger et als.,

Defendants.

EXTRACT FROM DECREE.

This cause came on this ~~25th~~ the 4th day of June, 1901, to be heard upon &c.*****
and, the court deeming it necessary, it is further adjudged, ordered and decreed that A.M.Goins, who is hereby appointed a special commissioner for the purpose, do ascertain and report to the next term of this court the liens existing ^{against} the real estate of the defendant J.C.Olinger, showing priorities, dates and amounts, and also the rental value of said real estate*****
and will further report any matter deemed pertinent by himself or required by any party in interest, and this cause is continued.

A copy teste:

..... *A.B. Mursey* Clerk.

COMMISSIONER'S NOTICE.

JONESVILLE, VA., Oct. *4* 1901.

The parties interested in the decree from which the foregoing is an extract, will take notice that, on the *18th* day of October, 1901, at my office in the town of Jonesville, I shall proceed to execute the same, when and where they are required to attend, with such books, papers, vouchers, and evidence as will enable me to comply with the order of the court.

..... *A.M. Goins*

Special Commissioner.

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Oct 15 1901

A. C. Morris
vs. { In Chancery
J. C. Olinger et al
Comis Notice for
Acck of Liens &c
for Oct 18th 1901

I accept legal
service of the within
notice. This Oct. 4,
1901.

L. P. Ryan

Executed by delivering
a copy of the within
notice to J. C. Olinger
this October 15, 1901,
J. P. Ely & S
for W. P. Milcham

COMMISSIONER'S NOTICE.

JONESVILLE, VA., Oct. 15, 1901.

"N"
The parties interested in the above from this the foregoing
is an extract, with notice that, on the 15th day of October,
execute the same. When and where they are required to attend, with
at an office in the town of Jonesville. I shall proceed to
such books, papers, records, and evidence as will enable me to com-

Respectfully,
J. P. Ely & S.

J. C. Olinger et al.

vs.

A. C. Morris,

(IN CHANCERY.)

EXTRACT FROM DECREE.

Defendants.

Plaintiff.

A. C. Morris

vs. } Comr's Report.

J. C. Olinger et al.

Filed Oct. 23, 1901,

A. B. Munsey Clerk

Fee for this Report, \$4⁵⁰

Virginia:

In the Circuit Court of Lee County to-wit,
A.C.Morris, Plaintiff, complains of J.C.Scott, J.W.Scott and John C.Olinger, defendants, who have been duly summoned etc., of a plea, that they render to the plaintiff the sum of one hundred and thirty two and 50/100 dollars which to the plaintiff they owe and from him unjustly detain, for this to-wit, that heretofore to-wit, on the first day of September 1892 the said defendants made and executed and delivered to the plaintiff their certain note in writing, commonly called a negotiable note by which they bound themselves to pay to the plaintiff, ninety days after the date of the said note in writing, at the Bank of Big Stone Gap, Virginia the sum of one hundred and thirty two and 50/100 dollars, with interest at six per cent per annum ^{after maturity} and as to said note the said defendants waived the benefit of the homestead exemption law and also waived demand, notice and protest if said note was not honored at maturity. Whereby an action hath accrued ^{said Plaintiff} to have and demand from the said defendants said sum of \$152.50 above demanded.

Yet the said defendants and each of them, though often requested, have not as yet paid to the said plaintiff, at the Bank of Big Stone Gap, Virginia, or any place else, said sum of \$132.50 or any part thereof, but to pay the same and every part thereof the said defendants ^{and each of them} have hitherto wholly refused and neglected, and they, and each of them, still refuse and neglect so to do, to the damage of the plaintiff \$132.50.

And therefore he brings this suite

A. C. Morris P. G.

\$ 132.50

Big Stone Gap, Va. Sept - 1st 1892

Ninety days after date I promise to pay to
the order of A. C. Morris

One hundred Thirty Dollars. Two ⁵⁰/₁₀₀ Dollars,

Negotiable and payable at the **BANK OF BIG STONE GAP, VIRGINIA.** Value received with interest at ⁶/₁₀₀ per cent.
per annum after maturity. As to this note, the maker and all endorsers hereby waive all benefit of the HOMESTEAD EXEMPTION LAW, and also waive
demand, notice, and protest if this note is not honored at maturity.

Due Dec 1st 1892

No.

L. C. Scott
J. W. Scott
J. C. Clinger

J. C. Scott
& others & notes

\$132.50 -
100

due Dec. 14-92

Southwest Virginian,
Jonesville, Va.

The Commonwealth of Virginia,

To the Sheriff of the County of Lee Greeting:

We command you to summon J. C. Scott, J. W. Scott and

J. C. Olinger

to appear at the Clerk's office of our Circuit Court of the County of Lee, at the court-house thereof, at the
Rules to be holden for said court, on the 1st Monday in January, 1898, to answer

A. C. Morris

of a plea of

Debt \$132.50

Damage One hundred thirty two & 50/100 Dollars. And have then there this writ.

Witness, A. B. MUNSEY, Clerk of our said court, at the court-house, the 24th day of

November 1897, and in the 122nd year of the Commonwealth.

A. B. Munsey Clerk.

A. L. Morris

vs

Summons in action of

Debt

J. L. Scott et al

L. T. Duncan p. q

1st Jan'y Rules,

1898 Circuit Court.

Executed on ^{27th day of Nov} Nov~~m~~
1897, by delivering
a true copy hereof
to the within named
J. L. Scott, J. H. Scott
and J. C. Olinger
Jas. M. Heston, D. S.
for H. P. Heston.

S. L. C.

A. C. Morris

vs $\frac{1}{2}$ Dec'd Debt

J. C. Scott et als

Note enclosed

1898 1st Jan'y rules dec'd filed
sums executed & Com ord
" 2nd Jan'y rules Com ord
Confirmed.

Pleffs Costs

Clerk	3.91
Jury	1.00
Shoff	1.50
atty	2.50
Co clk	2.50
	<u>\$9.16</u>

June term 1898 Judgt final
See Order Book No 6.P 1

The Commonwealth of Virginia,

To the Sheriff of the County of Lee, Greeting:

WE COMMAND YOU, That you summon *J. C. Olinger, W. J. Mileham*
Administrator of the estate of John W. Scott deceased
and William Killion Administrator de bonis non of
the estate of J. C. Scott deceased

to appear at the Clerk's office of the Circuit Court of the County of Lee, at the rules to be held for the
said court, on the *1st* Monday in *April* 1901, to answer a bill in
chancery exhibited against *them* in our said court by *A. C.*
Morris

And have then there this writ. Witness, A. B. Munsey, Clerk of our said Court, at the court-house,
the *26th* day of *February* 1901, and in the 12^{*th*} year of the Common-
wealth. A copy, Teste: *A. B. Munsey* Clerk.

Clerk.

Shff of Lee

Copies for J. L. Olinger
& W. J. Mileham

A. L. Morris

VS.

}

SUBPOENA
IN CHANCERY.

J. L. Olinger etals

Duncan Hyatt p. q.

To 15th April Rules.
Circuit Court.

Executed March 28-1901
by delivering an attested
office copy of the within
Subpoena to J. L. Olinger
J. P. Ch. S. S.
for W. J. Mileham

J. L. C.

J. accept legal service of the within Summons
this March the 28-1901

W. J. Mileham

The Commonwealth of Virginia, *Mise*

To the Sheriff of the County of ~~Lee~~ Greeting:

WE COMMAND YOU, That you summon *J. L. Olinger, W. J. Mileham*
Administrators of the estate of John W. Scott deceased,
and William Miller Administrator de bonis non of
The estate of J. L. Scott deceased

to appear at the Clerk's office of the Circuit Court of the County of Lee, at the rules to be held for the
said court, on the *1st* Monday in *April* 1901, to answer a bill in
chancery exhibited against *them* in our said court by *A. B.*
Munsey

And have then there this writ. Witness, A. B. Munsey, Clerk of our said Court, at the court-house,
the *26th* day of *February* 1901, and in the 12 ^{*th*} year of the Common-
wealth. A copy, Teste: *A. B. Munsey* Clerk.

Clerk.

Shff of Wice

A. C. Morris

VS.

SUBPCENA
IN CHANCERY.

J. C. Olinger et als

Duncan & Hyatt p. q.

To 1st April Rules.
Circuit Court.

Granted by
Delivered to
William & Ellis
a copy of the
Within Notice
for W. Ellis
for March 25 1881